

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1467

**Introduced by ~~Senators Padilla and Strickland~~ Senator Padilla
(~~Coauthors: Senators Ashburn and Price~~)**

February 19, 2010

An act to amend Section 26003 of, and to add Section 26011.7 to, the Public Resources Code, relating to energy. An act to add Section 326 to, and to repeal Sections 389, 619, 709.7, 740.3, 740.8, and 1701.6 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1467, as amended, Padilla. ~~Energy: California Alternative Energy and Advanced Transportation Financing Authority. Public Utilities Commission: reporting: wharfingers.~~

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities and may establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law requires the commission to develop, publish, and annually update an annual work plan access guide that describes the scheduled ratemaking proceedings and other decisions that may be considered by the commission during the calendar year, as prescribed. Existing law requires the president of the commission to annually appear before the appropriate policy committees of the Senate and Assembly to report on the annual work plan access guide and to report on the annual report of the commission on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings.

This bill would revise and recast these provisions to instead require the president of the commission to annually appear before these committees to report on the activities of the commission, including the work plan access guide and the annual case resolution report.

(2) The California High Speed Internet Access Act of 1999 (the act), among other things, requires the Public Utilities Commission to monitor and participate in a specified proceeding of the Federal Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

This bill would repeal the California High Speed Internet Access Act of 1999.

(3) Existing law requires the Public Utilities Commission, in cooperation with the State Energy Resources Conservation and Development Commission, the State Air Resources Board, air quality management districts and air pollution control districts, electrical and gas corporations, and the motor vehicle industry, to evaluate and implement policies to promote the development of equipment and infrastructure needed to facilitate the use of electric power and natural gas to fuel low-emission vehicles.

This bill would repeal this requirement.

(4) The Public Utility Act requires the Secretary of the California Environmental Protection Agency to evaluate and recommend to the Legislature public policy strategies that address the feasibility of shifting costs from electric utility ratepayers, in whole or in part, to other classes of beneficiaries, as prescribed, and requires the secretary to prepare and submit to the Legislature an annual report, in accordance with a prescribed schedule, on the existence, status, and progress of any public policy measures for cost-shifting developed as a result of the recommendations made pursuant to those provisions.

This bill would repeal these reporting requirements.

(5) Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state. Chapter 369 of the Statutes of 1987 deleted wharfingers as a category of public utility under the Public Utilities Act, but did not delete the authority granted to a wharfinger under the act to condemn property necessary for the

construction and maintenance of facilities for the receipt or discharge of freight or passengers.

This bill would repeal the authority of a wharfinger to condemn property.

~~The California Alternative Energy and Advanced Transportation Financing Authority Act established the California Alternative Energy and Advanced Transportation Financing Authority. The authority is authorized to do all things necessary and convenient to carry out the purposes of the act. The authority is also required to establish a renewable energy program to provide financial assistance, as defined, to certain entities for projects to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. Existing law provides that the transfer of title of tangible personal property constituting a project under the act to the authority by a participating party or the lease or transfer of tangible personal property constituting a project under the act by the authority to a participating party pursuant to the act is not a “sale” or “purchase” for the purposes of the Sales and Use Tax Law.~~

~~This bill would include as a project, machinery or equipment that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of an alternative source component. The bill would require the authority to consider specified criteria in approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 326 is added to the Public Utilities Code,
- 2 to read:
- 3 326. (a) The president of the commission shall annually appear
- 4 before the appropriate policy committees of the Senate and the
- 5 Assembly to report on the activities of the commission, including,
- 6 but not limited to, the matters described in subdivision (b).
- 7 (b) The president of the commission shall annually report on
- 8 the annual work plan access guide required pursuant to Section
- 9 321.6 and on the number of cases where resolution exceeded the
- 10 time periods prescribed in scoping memos and the days that

1 *commissioners presided in hearings, as required pursuant to*
2 *Section 13 of Chapter 856 of the Statutes of 1996.*

3 *SEC. 2. Section 389 of the Public Utilities Code is repealed.*

4 ~~389. (a) The Secretary of the California Environmental~~
5 ~~Protection Agency, in consultation with interested stakeholders~~
6 ~~including relevant state and federal agencies, boards, and~~
7 ~~commissions, shall evaluate and recommend to the Legislature~~
8 ~~public policy strategies that address the feasibility of shifting costs~~
9 ~~from electric utility ratepayers, in whole or in part, to other classes~~
10 ~~of beneficiaries. This evaluation also shall address the~~
11 ~~quantification of benefits attributable to the solid-fuel biomass~~
12 ~~industry and implementation requirements, including statutory~~
13 ~~amendments and transition period issues that may be relevant, to~~
14 ~~bring about equitable and effective allocation of solid-fuel biomass~~
15 ~~electricity costs that ensure the retention of the economic and~~
16 ~~environmental benefits of the biomass industry while promoting~~
17 ~~measurable reduction in real costs to ratepayers. This evaluation~~
18 ~~shall be in coordination with the California Energy Resources~~
19 ~~Conservation and Development Commission's efforts pursuant to~~
20 ~~subdivision (b) of Section 383, addressing renewable policy~~
21 ~~implementation issues. The Secretary of the California~~
22 ~~Environmental Protection Agency shall submit a final report to~~
23 ~~the Legislature, using existing agency resources, prior to March~~
24 ~~31, 1997.~~

25 ~~(b) The Secretary of the California Environmental Protection~~
26 ~~Agency, in consultation with relevant state and federal agencies,~~
27 ~~boards, and commissions, and with representatives of the solid-fuel~~
28 ~~biomass industry, shall prepare and submit to the Legislature an~~
29 ~~annual report on the existence, status, and progress of any public~~
30 ~~policy measures for cost-shifting developed as a result of the~~
31 ~~recommendations made pursuant to subdivision (a), on or before~~
32 ~~March 31 of each year from 1999 to 2001, inclusive. A report~~
33 ~~prepared pursuant to this subdivision shall not exceed 10 pages.~~

34 *SEC. 3. Section 619 of the Public Utilities Code is repealed.*

35 ~~619. A wharfinger may condemn any property necessary for~~
36 ~~the construction and maintenance of facilities for the receipt or~~
37 ~~discharge of freight or passengers.~~

38 *SEC. 4. Section 709.7 of the Public Utilities Code is repealed.*

39 ~~709.7. (a) This section shall be known and may be cited as the~~
40 ~~California High Speed Internet Access Act of 1999.~~

~~(b) The Public Utilities Commission shall monitor and participate in the proceeding of the Federal Communications Commission, entitled “In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability,” CC Docket No. 98-147, adopted March 18, 1999, addressing whether to require incumbent local exchange carriers to permit interconnection by competitive data local exchange carriers at any technically feasible point to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.~~

~~(c) If the Federal Communications Commission adopts an order on or before January 1, 2000, with regard to the proceeding described in subdivision (b), the Public Utilities Commission shall comply with, and implement, in a manner that the Public Utilities Commission determines to be appropriate, that order, as it pertains to loop access, pricing, and cost allocation in the provision of broadband data services over telephone lines provided by an incumbent local exchange carrier, consistent with state and federal law, within 90 days from the date that the rules adopted by that order are published in the Federal Register. If the Federal Communications Commission does not adopt an order on or before January 1, 2000, with regard to the proceeding described in subdivision (b), the Public Utilities Commission shall expeditiously examine the technical, operational, economic, and policy implications of interconnection as described in subdivision (b) and, if the Public Utilities Commission determines it to be appropriate, adopt rules to require incumbent local exchange carriers in this state to permit competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.~~

~~(d) As used in this section, the following terms have the following meanings:~~

~~(1) “Incumbent local exchange carrier” has the same meaning as that term is defined in Section 251(h)(1) of Title 47 of the United States Code.~~

~~(2) “Competitive local exchange carrier” has the same meaning as the term “local exchange carrier,” as defined in Section 153(26) of Title 47 of the United States Code.~~

SEC. 5. Section 740.3 of the Public Utilities Code is repealed.

~~740.3.— (a) The commission, in cooperation with the State Energy Conservation and Development Commission, the State Air Resources Board, air quality management districts and air pollution control districts, regulated electrical and gas corporations, and the motor vehicle industry, shall evaluate and implement policies to promote the development of equipment and infrastructure needed to facilitate the use of electric power and natural gas to fuel low-emission vehicles. Policies to be considered shall include both of the following:~~

~~(1) The sale-for-resale and the rate-basing of low-emission vehicles and supporting equipment such as batteries for electric vehicles and compressor stations for natural gas fueled vehicles.~~

~~(2) The development of statewide standards for electric vehicle charger connections and compressed natural gas vehicle fueling connections, including installation procedures and technical assistance to installers.~~

~~(b) The commission shall hold public hearings as part of its effort to evaluate and implement the new policies considered in subdivision (a), and shall provide a progress report to the Legislature by January 30, 1993, and every two years thereafter, concerning policies on rates, equipment, and infrastructure implemented by the commission and other state agencies, federal and local governmental agencies, and private industry to facilitate the use of electric power and natural gas to fuel low-emission vehicles.~~

~~(c) The commission's policies authorizing utilities to develop equipment or infrastructure needed for electric-powered and natural gas-fueled low-emission vehicles shall ensure that the costs and expenses of those programs are not passed through to electric or gas ratepayers unless the commission finds and determines that those programs are in the ratepayers' interest. The commission's policies shall also ensure that utilities do not unfairly compete with nonutility enterprises.~~

~~SEC. 6. Section 740.8 of the Public Utilities Code is repealed.~~

~~740.8.— As used in Section 740.3, "interests" of ratepayers, short- or long-term, mean direct benefits that are specific to ratepayers in the form of safer, more reliable, or less costly gas or electrical service, consistent with Section 451, and activities that benefit ratepayers and that promote energy efficiency, reduction of health and environmental impacts from air pollution, and~~

1 ~~greenhouse gas emissions related to electricity and natural gas~~
2 ~~production and use, and increased use of alternative fuels.~~

3 *SEC. 7. Section 1701.6 of the Public Utilities Code is repealed.*

4 ~~1701.6. (a) The president of the commission shall annually~~
5 ~~appear before the appropriate policy committees of the Senate and~~
6 ~~Assembly to report on the annual work plan access guide of the~~
7 ~~commission required pursuant to Section 321.6.~~

8 ~~(b) The president of the commission shall annually appear before~~
9 ~~the appropriate policy committees of the Senate and Assembly to~~
10 ~~report on the annual report of the commission on the number of~~
11 ~~cases where resolution exceeded the time periods prescribed in~~
12 ~~seoping memos and the days that commissioners presided in~~
13 ~~hearings, pursuant to Section 13 of Chapter 856 of the Statutes of~~
14 ~~1996.~~

15 *SECTION 1. Section 26003 of the Public Resources Code is*
16 *amended to read:*

17 ~~26003. As used in this division, unless the context otherwise~~
18 ~~requires:~~

19 ~~(a) "Authority" means the California Alternative Energy and~~
20 ~~Advanced Transportation Financing Authority established pursuant~~
21 ~~to Section 26004, and any board, commission, department, or~~
22 ~~officer succeeding to the functions of the authority, or to which~~
23 ~~the powers conferred upon the authority by this division shall be~~
24 ~~given.~~

25 ~~(b) "Cost" as applied to a project or portion of the project~~
26 ~~financed under this division means all or part of the cost of~~
27 ~~construction and acquisition of all lands, structures, real or personal~~
28 ~~property or an interest in the real or personal property, rights,~~
29 ~~rights-of-way, franchises, easements, and interests acquired or~~
30 ~~used for a project; the cost of demolishing or removing any~~
31 ~~buildings or structures on land so acquired, including the cost of~~
32 ~~acquiring any lands to which those buildings or structures may be~~
33 ~~moved; the cost of all machinery, equipment, and furnishings;~~
34 ~~financing charges, interest prior to, during, and for a period after,~~
35 ~~completion of construction as determined by the authority; the cost~~
36 ~~of the purchase or sale of energy derived from an alternative source~~
37 ~~pursuant to subdivision (g) of Section 26011; provisions for~~
38 ~~working capital; reserves for principal and interest and for~~
39 ~~extensions, enlargements, additions, replacements, renovations,~~
40 ~~and improvements; the cost of architectural, engineering, financial,~~

1 accounting, auditing and legal services, plans, specifications,
2 estimates, administrative expenses, and other expenses necessary
3 or incident to determining the feasibility of constructing any project
4 or incident to the construction, acquisition, or financing of a
5 project.

6 (e) (1) “Alternative sources” means the application of
7 cogeneration technology, as defined in Section 25134; the
8 conservation of energy; or the use of solar, biomass, wind,
9 geothermal, hydroelectricity under 30 megawatts, or any other
10 source of energy, the efficient use of which will reduce the use of
11 fossil and nuclear fuels.

12 (2) “Alternative sources” does not include a hydroelectric facility
13 that does not meet state laws pertaining to the control,
14 appropriation, use, and distribution of water, including, but not
15 limited to, the obtaining of applicable licenses and permits.

16 (d) “Advanced transportation technologies” means emerging
17 commercially competitive transportation-related technologies
18 identified by the authority as capable of creating long-term, high
19 value-added jobs for Californians while enhancing the state’s
20 commitment to energy conservation, pollution reduction, and
21 transportation efficiency. Those technologies may include, but are
22 not limited to, any of the following:

23 (1) Intelligent vehicle highway systems.

24 (2) Advanced telecommunications for transportation.

25 (3) Command, control, and communications for public transit
26 vehicles and systems.

27 (4) Electric vehicles and ultralow-emission vehicles.

28 (5) High-speed rail and magnetic levitation passenger systems.

29 (6) Fuel cells.

30 (e) “Financial assistance” includes, but is not limited to, either,
31 or any combination, of the following:

32 (1) Loans, loan loss reserves, interest rate reductions, proceeds
33 of bonds issued by the authority, insurance, guarantees or other
34 credit enhancements or liquidity facilities, contributions of money,
35 property, labor, or other items of value, or any combination thereof,
36 as determined by, and approved by the resolution of, the authority.

37 (2) Any other type of assistance the authority determines is
38 appropriate.

39 (f) “Participating party” means either of the following:

1 ~~(1) A person or an entity or group of entities engaged in business~~
2 ~~or operations in the state, whether organized for profit or not for~~
3 ~~profit, that does either of the following:~~

4 ~~(A) Applies for financial assistance from the authority for the~~
5 ~~purpose of implementing a project in a manner prescribed by the~~
6 ~~authority.~~

7 ~~(B) Participates in the purchase or sale of energy derived from~~
8 ~~an alternative source pursuant to subdivision (g) of Section 26011.~~

9 ~~(2) A public agency or nonprofit corporation that does either of~~
10 ~~the following:~~

11 ~~(A) Applies for financial assistance from the authority for the~~
12 ~~purpose of implementing a project in a manner prescribed by the~~
13 ~~authority.~~

14 ~~(B) Participates in the purchase or sale of energy derived from~~
15 ~~an alternative source pursuant to subdivision (g) of Section 26011.~~

16 ~~(g) “Project” means a land, building, improvement to the land~~
17 ~~or building, rehabilitation, work, property, or structure, real or~~
18 ~~personal, stationary or mobile, including, but not limited to,~~
19 ~~machinery and equipment, whether or not in existence or under~~
20 ~~construction, that utilizes, or is designed to utilize, an alternative~~
21 ~~source, or that is utilized for the design, technology transfer,~~
22 ~~manufacture, production, assembly, distribution, or service of~~
23 ~~advanced transportation technologies, alternative source~~
24 ~~components, or an arrangement for the purchase, including~~
25 ~~prepayment, or sale of energy derived from an alternative source~~
26 ~~pursuant to subdivision (g) of Section 26011.~~

27 ~~(h) “Public agency” means a federal or state agency, department,~~
28 ~~board, authority, state or community college, university, or~~
29 ~~commission, or a county, city and county, city, regional agency,~~
30 ~~public district, school district, or other political entity.~~

31 ~~(i) (1) “Renewable energy” means a device or technology that~~
32 ~~conserves or produces heat, processes heat, space heating, water~~
33 ~~heating, steam, space cooling, refrigeration, mechanical energy,~~
34 ~~electricity, or energy in any form convertible to these uses, that~~
35 ~~does not expend or use conventional energy fuels, and that uses~~
36 ~~any of the following electrical generation technologies:~~

37 ~~(A) Biomass.~~

38 ~~(B) Solar thermal.~~

39 ~~(C) Photovoltaic.~~

40 ~~(D) Wind.~~

1 ~~(E) Geothermal.~~

2 ~~(2) For purposes of this subdivision, “conventional energy fuel”~~
3 ~~means any fuel derived from petroleum deposits, including, but~~
4 ~~not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,~~
5 ~~including liquefied natural gas, or nuclear fissionable materials.~~

6 ~~(3) Notwithstanding paragraph (1), for purposes of this section,~~
7 ~~“renewable energy” also means ultralow-emission equipment for~~
8 ~~energy generation based on thermal energy systems such as natural~~
9 ~~gas turbines and fuel cells.~~

10 ~~(j) “Revenue” means all rents, receipts, purchase payments,~~
11 ~~loan repayments, and all other income or receipts derived by the~~
12 ~~authority from a project, or the sale, lease, or other disposition of~~
13 ~~alternative source or advanced transportation technology facilities,~~
14 ~~or the making of loans to finance alternative source or advanced~~
15 ~~transportation technology facilities, and any income or revenue~~
16 ~~derived from the investment of money in any fund or account of~~
17 ~~the authority.~~

18 ~~SEC. 2. Section 26011.7 is added to the Public Resources Code,~~
19 ~~to read:~~

20 ~~26011.7. (a) To promote the creation of jobs and reduction of~~
21 ~~greenhouse gases, the authority may approve a project for which~~
22 ~~the purchase, sale, or lease of tangible personal property qualifies~~
23 ~~for the sales and use tax exclusion pursuant to Section 6010.8 of~~
24 ~~the Revenue and Taxation Code.~~

25 ~~(b) In approving a project for which the purchase, sale, or lease~~
26 ~~of tangible personal property qualifies for the sales and use tax~~
27 ~~exclusion pursuant to Section 6010.8 of the Revenue and Taxation~~
28 ~~Code, the authority shall consider both of the following criteria:~~

29 ~~(1) The extent to which the anticipated benefit to the state from~~
30 ~~the project equals or exceeds the projected benefit to the~~
31 ~~participating party from the sales and use tax exclusion.~~

32 ~~(2) The extent to which the project will create new, permanent~~
33 ~~jobs in California.~~